



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0017]

Request for Comments and Public Hearing About the Extension Review of the Safeguard Action on Imports of Certain Crystalline Silicon Photovoltaic Cells

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: On August 6, 2021, the United States International Trade Commission (ITC) instituted a review to determine whether the safeguard action currently in place on imports of crystalline silicon photovoltaic (CSPV) cells (whether or not partially or fully assembled into other products), continues to be necessary to prevent or remedy serious injury and whether there is evidence that the domestic industry is making a positive adjustment to import competition. The Office of the United States Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), is announcing a process so that, in the event of an affirmative determination by the ITC, interested parties may submit views and evidence on the appropriateness of extending the safeguard measure and the action to be taken should the safeguard measure be extended. USTR also invites interested parties to participate in a public hearing regarding this matter.

DATES:

December 15, 2021 by midnight EST: Deadline for written comments.

December 15, 2021 by midnight EST: Deadline for requests to testify at the public hearing.

December 22, 2021 by midnight EST: Deadline for any written responses to those comments.

January 4, 2022: TPSC public hearing.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov> (Regulations.gov). The instructions for submitting written submissions are in sections III and IV below. The docket number is USTR-2021-0017. For alternatives to online submissions, contact Spencer Smith at Spencer.L.Smith2@ustr.eop.gov or (202) 395-2974 before transmitting a submission and in advance of the relevant deadline.

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at vmroczka@ustr.eop.gov or (202) 395-9450, or Michael T. Gagain, Office of the General Counsel, at Michael.T.Gagain@ustr.eop.gov or (202) 395-9529.

SUPPLEMENTARY INFORMATION:

I. The Safeguard Measure on CSPV Products and the Extension Review

On January 23, 2018, the President, pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253), issued Proclamation 9693, imposing a safeguard measure on imports of CSPV products, in the form of a tariff-rate quota on imports of solar cells not partially or fully assembled into other products, and an increase in duties on imports of modules. 83 FR 3541 (Jan. 25, 2018). The measure took effect on February 7, 2018, for a period of four years, a period that ends on February 6, 2022. On October 10, 2020, the President issued Proclamation 10101, which made certain modifications to the safeguard measure announced in Proclamation 9693. 85 FR 65639 (Oct. 16, 2020).

On August 6, 2021, following the receipt of petitions filed by members of the domestic CSPV industry, the ITC instituted an investigation to determine, pursuant to section 204(c) of the Trade Act (19 U.S.C. 2254(c)), whether the safeguard measure continues to be necessary to prevent or remedy serious injury and whether there is evidence that the domestic industry is making a positive adjustment to import competition. *See* 86 FR 44403 (Aug. 12, 2021). Section 204(c)(3) of the Trade Act

provides that, unless the President specifies a different date, the ITC must transmit to the President a report on its investigation and its determination not later than 60 days before the action taken under section 203 of the Trade Act is to terminate, which would be December 8, 2021.

If the ITC makes an affirmative determination pursuant to section 204(c)(1) and (c)(3) of the Trade Act, the President then, following receipt of the ITC's report, may extend the effective period of the safeguard measure on CSPV products if the President determines under section 203(e)(1)(B) of the Trade Act that the safeguard measure continues to be necessary to prevent or remedy the serious injury and there is evidence that the domestic industry is making a positive adjustment to import competition.

Pursuant to section 203(e)(1)(B), the effective period of any action taken under section 203, including any extensions thereof, may not, in the aggregate, exceed eight years.

Accordingly, any extension of the safeguard action on CSPV products may not exceed four years. If the President does not make this determination by February 6, 2022, the safeguard measure will terminate.

II. Proposed Measure and Opportunity to Comment

If the ITC makes an affirmative determination in its extension review under section 204(c) of the Trade Act, the TPSC will make a recommendation to the President regarding the determination to be made under section 203(e)(1)(B) of the Trade Act and the extent to which the effective period of the safeguard measure should be extended.

USTR, on behalf of the TPSC, invites comments from domestic producers, importers, exporters, and other interested parties on the determination that the President must make under section 203(e)(1)(B) of the Trade Act. In providing comments, we request that you address:

1. Whether the President should extend the action taken under section 203 on imports of CSPV products, as described in Proclamation 9693 and as modified in Proclamation 10101.
2. For how long the President should extend the action on imports of CSPV products.
3. Any other action that the President should take if the President decides to extend the action on imports of CSPV products and the statutory or other basis for taking that action.

If the ITC makes an affirmative determination, the TPSC will hold a public hearing on January 4, 2022. Due to COVID–19, details regarding the hearing, including the format (*i.e.*, whether it will be held in person or virtually) and schedule, will be provided at a later time and in advance of the hearing date.

III. Submission Instructions

If the ITC makes an affirmative determination, USTR seeks public comments with respect to the issues described in Section II. To be assured of consideration, you must submit written comments by midnight EST on December 15, 2021, and any written responses to those comments by midnight EST on December 22, 2021. All comments must be in English and must identify on the reference line of the first page of the submission ‘Extension Review: CSPV Cells.’ You should include a summary of no more than two pages that identifies the key points with your written comments.

The deadline to submit requests to testify at the public hearing is midnight EST on December 15, 2021. Requests to testify must include the following information: (1) name, address, telephone number, email address, and firm or affiliation of the individual wishing to testify, and (2) a copy of your written comments. The TPSC will not accept written testimony at the hearing. You must include any materials you intend to use during your testimony with the written comments you submit.

All submissions must be in English and sent electronically via Regulations.gov. To submit comments via Regulations.gov, enter docket number USTR–2021-0017. Find

a reference to this notice and click on the link entitled ‘comment now!’. For further information on using Regulations.gov, please consult the resources provided on the website by clicking on ‘how to use regulations.gov’ on the bottom of the Regulations.gov home page. USTR will not accept hand-delivered submissions.

Regulations.gov allows users to submit comments by filling in a ‘type comment’ field or by attaching a document using an ‘upload file’ field. USTR prefers that you submit comments as an attached document. If you attach a document, it is sufficient to type ‘see attached’ in the ‘type comment’ field. USTR strongly prefers submissions in Adobe Acrobat (.pdf). If you use an application other than Adobe Acrobat or Word (.doc), please indicate the name of the application in the ‘type comment’ field.

File names should reflect the name of the person or entity submitting the comment. Please do not attach separate cover letters to electronic submissions; rather, include any information that would be in a cover letter in the comment itself. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files. For any comments submitted electronically that contain business confidential information (BCI), the file name of the business confidential version should begin with the characters ‘BCI.’ You must clearly mark any page containing BCI by including ‘BUSINESS CONFIDENTIAL’ on the top of that page and clearly indicating, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that you would not customarily release the information to the public.

Filers of submissions containing BCI also must submit a public version of their comments. The file name of the public version should begin with the character ‘P.’ Follow the ‘BCI’ and ‘P’ with the name of the person or entity submitting the comments.

If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact Spencer Smith at Spencer.L.Smith2@ustr.eop.gov or (202) 395-2974 to discuss whether alternative arrangements are possible. Please do not include BCI in your request to testify.

USTR will post submissions in the docket for public inspection, except properly designated BCI. You can view submissions on [Regulations.gov](https://www.regulations.gov) by entering docket number USTR-2021-0017 in the search field on the home page.

Edward Gresser,

Chair of the Trade Policy Staff Committee,

Office of the United States Trade Representative.

[FR Doc. 2021-21261 Filed: 9/29/2021 8:45 am; Publication Date: 9/30/2021]